

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ARAB SALEM, Individually and On Behalf	)	
of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 1:20-CV-04354
v.	)	
	)	Hon. Judge Gary R. Brown
NIKOLA CORPORATION, TREVOR R.	)	Magistrate Judge Steven I. Locke
MILTON, MARK A. RUSSELL, AND KIM	)	
J. BRADY,	)	
	)	
Defendants.	)	

**JOINT STIPULATION AND [PROPOSED] ORDER TO TRANSFER VENUE  
PURSUANT TO 28 U.S.C. § 1404(a)**

Subject to the approval of the Court, and pursuant to 28 U.S.C. § 1404, Plaintiff Arab Salem (“Plaintiff”), and Defendants Nikola Corporation, Trevor R. Milton, Mark A. Russell, and Kim J. Brady (collectively, “Defendants,” and together with Plaintiff, the “Parties”), hereby file this Stipulation to Transfer Venue to the United States District Court for the District of Arizona. In support thereof, the Parties respectfully submit as follows:

**RECITALS**

WHEREAS, on September 16, 2020, Plaintiff filed a putative class action complaint (the “Complaint”) in the above-captioned case alleging violations of the Securities Exchange Act of 1934 (the “1934 Act”), and Rule 10b-5 promulgated thereunder by the Securities and Exchange Commission (the “SEC”) against the Defendants;

WHEREAS, in addition to this lawsuit, five other purported securities class action lawsuits based on substantially similar allegations, asserting violations of the 1934 Act, have been filed against Defendants;

WHEREAS, four cases—including the first-filed case—are pending before the District of Arizona, and have been designated as related proceedings (*see Borteanu v. Nikola Corp. et al.*, Case No. 2:20-cv-01797-SPL (D. Ariz., Sept. 15, 2020), *Wojichowski v. Nikola Corp., et al.*, 2:20-cv-01819-DLR (D. Ariz., Sept. 17, 2020), *Holzmacher v. Nikola Corp., et al.*, 2:20-cv-02123-JJT (D. Ariz., Nov. 3, 2020); and *Eves v. Nikola Corp. et al.*, 2:20-cv-02168-DLR (D. Ariz., Nov. 10, 2020), together the “Arizona Actions”);

WHEREAS, one similar case was filed before the Central District of California, *see Malo v. Nikola Corp. et al.*, 5:20-cv-02168 (C.D. Cal., Oct. 16, 2020);

WHEREAS, on November 13, 2020, Nikola Corporation and counsel for plaintiff Malo entered into a Joint Stipulation to Transfer Venue to the District of Arizona Pursuant to 28 U.S.C. § 1404(a) (*see* Malo Dkt. 11);

WHEREAS, on November 16, 2020, District Judge Holcomb entered an Order, transferring the *Malo* action to the District of Arizona (*see* Malo Dkt. 30);

WHEREAS, the *Salem* Action currently remains the only related putative securities class action lawsuit pending outside of the District of Arizona;

WHEREAS, on November 16, 2020, nine parties filed motions to consolidate and/or motions for lead plaintiff in the *Salem* Action;

WHEREAS, on November 16, 2020, all nine parties who filed motions to consolidate and/or motions for lead plaintiff in the *Salem* Action (the “Interested Plaintiff Parties”) also filed motions to consolidate and/or motions for lead plaintiff in the pending Arizona Actions;

WHEREAS, transfer of this matter is controlled by 28 U.S.C. § 1404, which provides:

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

WHEREAS, Defendant Nikola's principal place of business and headquarters are located within the District of Arizona, making transfer to the District of Arizona appropriate under 28 U.S.C. § 1404;

WHEREAS, given the location of Defendant's headquarters, the majority of the relevant documents and potential witnesses (including Nikola employees) are located in Arizona;

WHEREAS, the Parties agree that the convenience of the parties and witnesses to this action warrants transfer, and the Parties stipulate and agree to transfer this action to the United States District Court for the District of Arizona;

WHEREAS, the Parties have met and conferred with counsel for all of the Interested Plaintiff Parties who filed motions to consolidate and/or motions for lead plaintiff in the *Salem* Action; and

WHEREAS, all counsel for the Interested Plaintiff Parties have had an opportunity to review this Stipulation, and all Interested Plaintiff Parties have confirmed that they do not oppose transfer to the District of Arizona.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** as follows:

1. If this Stipulation is approved and so ordered by the Court, the *Salem* Action shall be transferred to the United States District Court for the District of Arizona.
2. In the interests of judicial economy, conservation of time and resources, and orderly management of this action, no response to any pleading in this action by any Defendant should occur until after: (i) a lead plaintiff and lead counsel are appointed pursuant to the PSLRA in the Arizona Actions; (ii) such lead plaintiff identifies or files an operative complaint; and (iii) the parties to the consolidated Arizona Actions agree upon an appropriate schedule to move against or otherwise answer the operative complaint;

3. Within 30 days of lead plaintiff and lead counsel being appointed in the Arizona Actions, Defendants and any appointed lead plaintiff(s) shall, through their respective counsel, confer in good faith regarding a briefing schedule with respect to any anticipated motions challenging the sufficiency of the operative pleading, the jurisdiction of the court and/or the appropriate venue.
4. Nothing herein shall be deemed to constitute a waiver of, and Defendants do not waive and expressly preserve, all arguments and defenses in the above-captioned action.
5. A facsimile, pdf, or electronic signature shall have the same effect as the original.

**IT IS SO STIPULATED.**

Dated: November 23, 2020

Respectfully submitted,

/s/ Gabor Balassa

Asheesh Goel, P.C.

Gabor Balassa, P.C.

Whitney L. Becker

KIRKLAND & ELLIS, LLP

300 N. LaSalle

Chicago, Illinois 60654

Phone: (312) 862-2000

Fax: (312) 862-2200

E-Mail: [asheesh.goel@kirkland.com](mailto:asheesh.goel@kirkland.com)

[gbalassa@kirkland.com](mailto:gbalassa@kirkland.com)

[whitney.becker@kirkland.com](mailto:whitney.becker@kirkland.com)

Jeremy A. Fielding, P.C.

KIRKLAND & ELLIS LLP

1601 Elm Street

Dallas, Texas 75201

Phone: (214) 972-1770

Email: [jeremy.fielding@kirkland.com](mailto:jeremy.fielding@kirkland.com)

Aaron Marks, P.C.

KIRKLAND & ELLIS LLP

601 Lexington Ave.

New York, New York 10022

Phone: (212) 446-4800

Email: [aaron.marks@kirkland.com](mailto:aaron.marks@kirkland.com)

*Attorneys for Defendants Nikola Corporation,  
Mark A. Russell and Kim Brady*

/s/ Bradley J. Bondi

Bradley J. Bondi

Peter J. Linken

Cahill Gordon & Reindel LLP

32 Old Slip

New York, NY 10005

Phone: (212) 701-3000

Email: [bbondi@cahill.com](mailto:bbondi@cahill.com)

[plinken@caill.com](mailto:plinken@caill.com)

*Attorneys for Defendant Trevor Milton*

/s J. Alexander Hood II

Jeremy A. Lieberman  
J. Alexander Hood II  
POMERANTZ LLP  
600 Third Avenue, 20th Floor  
New York, New York 10016  
Telephone: (212) 661-1100  
Facsimile: (212) 661-8665  
jalieberman@pomlaw.com  
ahood@pomlaw.com

Patrick V. Dahlstrom  
10 South La Salle Street, Suite 3505  
Chicago, Illinois 60603  
Telephone: (312) 377-1181  
Facsimile: (312) 377-1184  
pdahlstrom@pomlaw.com

Brian Schall  
Rina Restaino  
THE SCHALL LAW FIRM  
2049 Century Park East, Suite 2460  
Los Angeles, CA 90067  
Telephone: (424) 303-1964  
brian@schallfirm.com  
rina@schallfirm.com

*Counsel for Plaintiff*

SO ORDERED:

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Hon. Gary R. Brown, U.S.D.J.

**CERTIFICATE OF SERVICE**

I hereby certify that on November 23, 2020, a true and correct copy of the foregoing document, **JOINT STIPULATION AND [PROPOSED] ORDER TO TRANSFER VENUE**, was electronically filed and served upon counsel of record via the Court's CM/ECF System.

/s/ Gabor Balassa